

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/785,189

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Applicant: Thanh Vinh Vuong

Examiner: Michael C. Colucci

Title: SYSTEM AND METHOD FOR MULTI-LINGUAL TRANSLATION

Docket No.: 16813-13US

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Commissioner of Patents

P.O. Box 1450

Alexandria, V.A. 22313-1450

Dear Sir/Madam:

**APPEAL BRIEF**

This Appeal Brief is submitted pursuant to the Notice of Appeal received in the U.S. Patent and Trademark Office on March 17, 2009, and in support of the appeal from the final rejection(s) set forth in the Final Office Action mailed on September 17, 2008. The fee for filing a brief in support of an appeal is enclosed.

Also submitted herewith is a petition for reinstatement pursuant to the Notice of Panel Decision to the pre-appeal brief, mailed on October 16, 2009, and the Notice of Abandonment mailed on March 18, 2010.

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**Real Party in Interest**

The real party of interest is Research In Motion Limited, by virtue of an assignment executed by the inventors in favour of Research In Motion Limited, recorded at Reel/Frame 015033/0630.

**Related Appeals and Interferences**

None.

**Status of Claims**

Pursuant to the Examiner's Final Office Action mailed September 17, 2008, the status of the claims is as follows:

claims 1, 5-9, 12, 15, 16, and 20-25 stand rejected under 35 U.S.C. 103(a); and

claims 2-4, 10, 11, 13, 14, and 17-19 were previously cancelled.

The rejections of claims 1, 5-9, 12, 15, 16, and 20-25 are being appealed.

**Status of Amendments**

No amendments were presented subsequent to the Examiner's Final Action of September 17, 2008.

**Summary of Claimed Subject Matter**

The present claims are directed to a method and apparatus for translating a portion of a text-based communication to be transmitted from the wireless device. More specifically, the present claims provide for a method, a mobile device, and a system for translating a text-based communication to be transmitted from a wireless communications device.

Independent claim 1 defines, in a wireless communications device (FIG. 2) enabled for communication in a wireless communications network (FIG. 1), a method of translating a portion of a text-based communication to be transmitted from the wireless device (FIGS. 3, 4A and 4B), comprising: determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate (paragraphs 0043-0045); sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated (paragraph 0047); receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language (paragraph 0046); stopping the continual monitoring of the text-based communication upon detecting an indication that the text-based communication is to be sent; providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation (paragraph 0047); and sending the text-based communication after a response has been received for each prompt (paragraph 0048).

Independent claim 9 recites a system for translating a text-based communication to be transmitted from a wireless communications device (FIGS. 1 and 2), the wireless communications device being coupleable for communicating in a wireless communications network, the system comprising: an application coupled to a processor and configured for determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a

trigger symbol, the trigger symbol indicating which text to translate (paragraph 0049); sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated (paragraph 0049) receiving and associatively storing with the indicated text a translation thereof, from a first to a second language; stopping the continual monitoring of the text-based communication upon detecting an indication that the text-based communication is to be sent (paragraph 0047); providing one or more prompts such that there is one prompt corresponding to each previously indicated translated text and further where each prompt comprises the corresponding translation (paragraph 0047); and sending the text-based communication after a response has been received for each prompt (paragraph 0048).

Independent claim 12 recites a mobile device (FIG. 2) for wirelessly communicating text-based communications configured for use in a communications network (FIG. 1), the mobile device comprising: a composition component to compose text for communicating wirelessly in a text-based communication (paragraph 0049); and a translation component configured for determining text of the text-based communication to be translated from a trigger symbol associated with the portion whilst the communication is being composed (paragraph 0049), the portion of text to be translated being indicated by at least one trigger symbol placed adjacent the portion (paragraph 0049); transmitting a translation request to a translation service means coupled to the wireless communications device, the translation service means translating the text to be translated from a first language to a second language (paragraph 0049); receiving the translated text in the second language at the wireless communications device; continually monitoring to determine whether a send message request is received on the wireless communications device (paragraph 0047); monitoring the text-based communication for the presence of a trigger symbol if it is determined that a send message request has not been received (paragraph 0049); sending a request for the translation of the portion of text automatically from the wireless communications device to the translation service means upon determining the presence of the at least one trigger symbol whilst the communication is being composed (paragraph 0049); providing a prompt to receive a response for each replacement translated portion of text if it is determined that a send



message request has been received (paragraph 0047); and sending the message once it is determined that there are no replacement translated portions of text requiring a response (paragraph 0048).

It is further noted that literal support for the claims can be found, for example, in the summary and throughout the application, as originally filed.

**Grounds of Rejection to be Reviewed on Appeal**

The Applicant seeks to appeal the following grounds of rejection:

1) whether claims 1, 7-9, and 12 are unpatentable under 35 U.S.C. § 103(a) over Lin (U.S. Patent No. 6,999,916) in view of Kugimiya (U.S. Patent No. 5,023,786); and

2) whether claims 5, 6, 15, 16, and 20-25 are unpatentable under 35 U.S.C. § 103(a) over Lin in view of Kugimiya and yet in further view of Abir (U.S. Patent Publication No. 20040122656).

**Argument**

**Rejection under 35 U.S.C. 103(a) of claims 1, 7-9, and 12 under 35 U.S.C. § 103(a) over Lin (U.S. Patent No. 6,999,916) in view of Kugimiya (U.S. Patent No. 5,023,786).**

In order to establish a case of obviousness, “the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be determined; and the level of ordinary skill in the art resolved. Against this background the obviousness or non-obviousness of the subject matter is determined. [Such secondary factors as commercial success, long felt but unrecognized needs, failures of others, etc., might be utilized to give light to the circumstances surrounding to origin of the subject matter sought to be patented.”] KSR Int’l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007), citing *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

In order to reject a claim based on a combination of references, as explained at MPEP 2143 (citing the Supreme Court in *KSR v. Teleflex*), “Office personnel must resolve the *Graham* factual inquiries...

Then, Office personnel must articulate the following:

- (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;
- (2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately;
- (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
- (4) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

*KSR*, 82 USPQ2d at 1395; *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282, 189 USPQ 449, 453 (1976); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 62-63, 163 USPQ 673, 675 (1969); *Great Atlantic & P. Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152, 87 USPQ 303, 306 (1950). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR*, 82 USPQ2d at 1396.

MPEP 2143 further notes that if *"any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art."*

The Applicant submits that in the present case, the rejections under 35 U.S.C. § 103(a) should be withdrawn for at least the reasons that: (a) Lin and/or Kugimiya, whether taken alone or in combination, fail to teach or suggest all of the features recited in the claims; and (b) the Examiner has failed to provide a proper prima facie case of obviousness because there is no properly articulated rationale for combining the references.

**(1) Even if the references are combined, they do not disclose all of the features of Applicant's broadest claims**

*The prior art fails to teach or suggest a method of translating a portion of a text-based communication to be transmitted from a wireless communications device, as claimed in claim 1.*

The Examiner points to Col. 5, line 55 to Col. 6, line 15 of Lin, with regards to the claimed method of translating a portion of a text-based communication to be transmitted from a wireless communications device in a wireless communications network. Contrary to the Examiner's allegation, there is nothing in the cited portion of Lin that suggests that the selected text is not specific user-selected text of World Wide Web site pages, as defined and explained by Lin. Therefore, it cannot be fairly suggested that the cited portion of Lin teaches or suggests a method of translating a portion of a text-based communication to be transmitted from a wireless communications device, as presently claimed. To the contrary, Lin suggests the opposite approach, where text or voice is selected on a WEB site and is translated using a site integrated method, for

delivering the translated text to the wireless device. Further, the material translated by Lin is not a portion of a text-based communication, as claimed.

In the Final Office Action of September 17, 2008, the Examiner points to a number of additional sections of Lin and seems to suggest that because Lin discloses servers, wireless devices, and voice translations that Lin must teach the feature of translating a portion of a text-based communication to be transmitted from a wireless communications device. To the contrary, even in the embodiments of Lin that involve voice translation, Lin clearly states in Columns 15 and 16 that the voice is sent to a WAP server where voice to text conversion and translation occurs. Lin simply does not teach or suggest translating a portion of a text-based communication to be transmitted from a wireless communications device, as claimed. None of the other cited references disclose this claimed feature.

*The prior art fails to disclose sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated, as claimed in claim 1.*

The Examiner points to Col. 8, lines 5-15 and FIG. 9 of Lin in respect of the claimed step of sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated. The cited portion of Lin states that a voice message is sent to the WAP server, where voice recognition software converts the voice to text. This is in direct contrast to the claimed subject matter, which recites sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated. In the claimed subject matter, the text to be translated is sent by the wireless device. Further, it is noted that the translation of the voice message in Lin is returned to a slave device, whereas the original message is sent by a master device. In contrast, the pending claims recite that the text to be translated is sent by and the resulting translation received by the same wireless communications device. Therefore, again, the teachings of Lin substantially diverge from the claimed subject matter and Lin fails to teach or suggest this feature.

In the Final Office Action of September 17, 2008, the Examiner points to a number of additional sections of Lin and seems to suggest that because Lin discloses servers, wireless devices, and voice translations that Lin must teach the feature of sending a translation request, the translation request configured for reception by a translation

service means and comprising the text to be translated. To the contrary, even in the embodiments of Lin that involve voice translation, Lin clearly states in Columns 15 and 16 that the voice is sent to a WAP server where voice to text translation occurs. Lin simply does not teach or suggest sending a translation request that includes the text to be translated, as claimed. Any text-based communication to be translated in the disclosure of Lin is not transmitted from a wireless communications device, as claimed, nor does the request sent by the wireless communications device include the text to be translated. None of the other cited references disclose this claimed feature.

*The prior art fails to teach or suggest receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language, as claimed in claim 1.*

As pointed out in the Applicant's previous response of July 8, 2008, the Examiner points to Col. 7, lines 26-39 and FIG. 7A of Lin with regards to the claimed receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language. The Applicant is unable to find anything in the cited portion of Lin or anywhere in Lin that teaches or suggests receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language, in a wireless communications device, as claimed. Further, the cited portion of Lin again refers to the situation where text is selected on a web site for translation, which is contrary to the claimed subject matter. Likewise, the Applicant is unable to find this claimed feature in any of the cited art. The Examiner does not appear to have addressed this argument in the Final Office Action of September 17, 2008, which leaves the Applicant in the untenable position of having to respond to a rejection to which no proper basis is provided.

*The prior art fails to teach or suggest determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate, as claimed in claim 1.*

The Examiner admits that Lin fails to disclose this feature, but points to Col. 5, lines 51-64 and FIG. 11 of Kugimiya with regards to the claimed determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The cited portion of Kugimiya discusses first and second symbols

that indicate a start position and an end position of relative clauses or prepositional or indefinite phrases. The symbols indicate whether or not a relative clause of non-restrictive use or a prepositional or indefinite phrase exist in a string of text. The symbols discussed by Kugimiya are not trigger symbols indicating which text to translate, as claimed, and Kugimiya provides no motivation to use the symbols in this way.

At page 6 of the Final Office Action of September 17, 2008, the Examiner seems to recognize that Kugimiya does not teach determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The Examiner then states, "Though, Kugimiya teaches the detection of prepositional or indefinite phrases, these types of input are considered text regardless, wherein users will not always send complete text/voice sentences wirelessly through cellular phones or other wireless means." However, the claimed feature in issue recites determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. Regardless of the fact that prepositional or indefinite phrases are comprised of text, as the Examiner points out, this is not relevant to the issue at hand, being whether or not Kugimiya discloses continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The symbols of Kugimiya simply do not indicate which text to translate. Rather, the symbols of Kugimiya indicate the presence of prepositional or indefinite phrases in text to be translated, which aides the system of Kugimiya in performing a translation. This is not the same as interpreting the presence of a symbol as a trigger or as an instruction to begin translating a portion of text to translate, as indicated by the present claim language.

At page 7 of the Final Office Action of September 17, 2008, the Examiner then states, "The combination of Lin in view of Kugimiya clearly demonstrates the present invention, particularly specific limitations such as the use of trigger symbols. Kugimiya teaches input text surrounded by quotations, wherein a user can input text through the use of a keyboard or other buttons. When translation initiates, only the enclosed "translation" will be sent as a translation, wherein a user has the option to include text that he/she wishes not to be translated (Kugimiya Fig. 11). The quotations are functionally equivalent and equally effective to a general "trigger symbol" recited in the present invention, wherein input text for translation is monitored relative to a trigger symbol, so

that a system knows which text to translate.” The Examiner seems to suggest that the quotations shown in Figure 11 of Kugimiya are trigger symbols. It is clear from a simple reading of the text shown in Figure 11 that the quotations are used, in fact, to indicate a quotation. From Figure 11:

“Dominance in memories allows you to advance technology, which is the precursor for dominance in the other fields,” explains Jerry Sanders.

The quotation marks shown in Figure 11 are used to indicate a quote by Jerry Sanders. There is nothing in the relevant description of Figure 11 found at Column 5 of Kugimiya that suggests that the quotation marks are used for any other purpose than to indicate the presence of a quote. It is submitted that the prior art fails to disclose the claimed feature of determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate, as claimed.

Further, it is submitted that the Examiner’s suggestion that the quotation marks are in fact the same as the claimed trigger symbols is clear evidence that the Examiner is engaged in an *ex post facto* hindsight analysis using the Applicant’s disclosure as motivation for picking bits and pieces of the prior art in an attempt to reconstruct the Applicant’s claimed subject matter. This is strictly forbidden and constitutes further reversible legal error. It is well-established that an obviousness analysis that relies upon the applicant’s disclosure rather than the prior art reference is improper as being based upon an impermissible hindsight reconstruction. *In re Deuel*, 51 F.3d 1551, 1558 (Fed. Cir. 1995). A single line in a prior art reference should not be taken out of context and relied upon with the benefit of hindsight. *Bausch & Lomb, Inc. v. Barnes Hind/Hydrocurve, Inc.*, 796 F.2d 443 (Fed. Cir. 1986).

Since Lin and/or Kigimiya, whether taken alone or in combination, fail to teach or suggest many of the features of claim 1, it is submitted that the rejection under 35 U.S.C. § 103(a) is improper and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejection. Independent claims 9 and 12 recite substantially similar features and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejection of these claims for the same reasons. It is further submitted that the dependent claims are patentable over the cited art for the same reasons.



**(2) The Examiner has failed to provide a proper prima facie case of obviousness because there is no properly articulated rationale for combining the references**

In *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007), (hereinafter “KSR”), the Supreme Court held that “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (*In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in *KSR*).

Assuming that the Examiner were to have cited references disclosing or suggesting all elements of the claims, the Examiner still would not have made a *prima facie* case for rejection. The Examiner must still produce some impetus or justification that would direct one skilled in the art to put the elements together to achieve the claimed subject matter. In particular, the Examiner must demonstrate with evidence and reasoned argument that there was some sort of justification for one skilled in the art to select and combine features from the cited references. *E.g.*, *In re Lee*, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002); *see also KSR*, 127 S.Ct. (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Moreover, the prior art must suggest the desirability of the combination, not merely the feasibility. *In re Fulton*, 73 USPQ2d 1141, 1145 (Fed. Cir. 2004). The reason for combining should ordinarily be addressed by the patent application, even if it is not a problem that the disclosure of the patent application specifically tries to solve. *See KSR*, S.Ct. (the reason for combining should be known in the field of art and “addressed by” the patent or patent application).

In the Final Office Action mailed September 17, 2008, independent claims 1, 9, and 12 are rejected under 35 USC 103(a) as being allegedly obvious in view of Lin and Kugimiya. The Examiner concedes that “Lin fails to teach the trigger symbol indicating which text to translate.” The Examiner then states that “Kugimiya teaches a translating apparatus of the present invention includes the syntactic decision means which decides from the construction of the inputted sentence whether or not a relative clause of

nonrestrictive use or a prepositional or indefinite phrase for modifying a verb accompanied by a comma located immediately before the phrase exists and the symbol generating means which generates in the translated sentence, the first and second symbols indicative of the start position and the end position of the relative clause or the prepositional or indefinite phrase when the relative clause or the prepositional or indefinite phrase exists.”

The Examiner then concludes that “[I]t would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lin to incorporate transmitted text to be translated in a wireless network utilizing trigger symbols to identify the portion of text to be translated as taught by Kugimiya to allow for the isolation of which text is desired as the translated portion, wherein the system will be able to recognize the tagged/triggered text by triggering proper grammar, syntax, and morphology rules for a specific language relevant to a selected portion, wherein a syntactic decision means which decides from the construction of the inputted sentence whether or not a relative clause of nonrestrictive use or a prepositional or indefinite phrase for modifying a verb accompanied by a comma located immediately before the phrase exists and the symbol generating means which generates in the translated sentence (Kugimiya Col. 5 lines 50-63).”

With respect, this is a mere conclusory statement of an unsubstantiated legal conclusion. Further, the Examiner’s statements have little relation to the claim language at issue. In fact, even the broad aspiration bears little relevance to the claim language at issue. Applicant respectfully submits that the Examiner has failed to articulate a rational basis for combining the references, which thus effectively deprives Applicant of a careful, thorough, professional examination of the claims (as required by *KSR*). The Examiner’s offering of the reason to combine is nothing more than a statement of the admitted feature missing from Lin followed by a quote from Kugimiya. Neither offerings are relevant to the claimed features at issue.

The Examiner’s proffered rationales for combining elements from disparate references are legally insufficient. The purported rationale is too general, and is not directed a broad aspiration rather than to the particular combination of elements at issue. *See Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 660 (Fed. Cir. 2000) (a purported impetus for a combination must “clearly and particularly” lead one of ordinary skill in the art to make a combination).

The Examiner has merely made a number of loose statements about Lin and Kugimiya without addressing the crux of the matter, which is *why* a person of ordinary skill in the art would have been led to combine these references? In other words, a properly reasoned rejection under 35 USC 103 would need, at the very least, to answer the question as to what would lead a person of ordinary skill in the art, who begins with the Lin reference, to look at the Kugimiya reference. Furthermore, it remains incumbent upon the Office to explain how a person of ordinary skill would have, in the very first place, even *recognized* that the system for translating web sites of Lin or the translator which recognizes prepositional or indefinite phrases and relative clauses of Kugimiya could be used to address the problem of translating of text composed by a user of a wireless communications device. These questions remain unanswered by the various Office Actions and the Advisory Action to date.

In view of the foregoing, Applicant respectfully submits that the obviousness rejections are not properly substantiated by appropriately articulated reasons setting forth why the combination of references would be obvious. Absent any properly articulated reasoning, Applicant respectfully submits that the Examiner is merely engaged in an *ex post facto* reconstruction of the invention, which therefore constitutes a further reversible legal error.

It is therefore submitted that the rejection under 35 U.S.C. § 103(a) is improper and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejection. Independent claims 9 and 12 recite substantially similar features and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejection of these claims for the same reasons. It is further submitted that the dependent claims are patentable over the cited art for the same reasons.

**Rejection of claims 5, 6, 15, 16, and 20-25 under 35 U.S.C. § 103(a) over Lin in view of Kugimiya and yet in further view of Abir (U.S. Patent Publication No. 20040122656).**

The Examiner further rejects claims 5, 6, 15, 16, and 20-25 as being obvious over Lin in view of Kugimiya, and yet in even further view of Abir, and admits that even Lin and Kugimiya fail to teach or suggest all of the features recited in claims 5, 6, 15, 16, and 20-25.

**(1) Even if the references are combined, they do not disclose all of the features of Applicant's broadest claims**

It is submitted that Abir fails to teach or suggest the features of the independent claims that Lin and Kugimiya fail to teach or suggest, as argued above. In other words, Abir fails to cure the deficiencies of Lin and Kugimiya outlined above.

Since Lin, Kigimiya, and Abir whether taken alone or in combination, fail to teach or suggest many of the features of the dependent claims (and the respective claims from which these claims depend), it is submitted that the rejection under 35 U.S.C. § 103(a) is improper and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejection.

**(2) The Examiner has failed to provide a proper prima facie case of obviousness because there is no properly articulated rationale for combining the references**

Abir concerns a method and apparatus related to a knowledge system. The Examiner's motivation for modifying the teachings of Lin and Kugimiya with Abir, as articulated at section 4 of the Office Action of September 17, 2008, consist of statements pulled from Abir that have little, if anything, to do with the claimed subject matter or the relevant sections of the cited references. As outlined above with respect to the rejections over Lin and Kugimiya, the Applicant again respectfully submits that the Examiner has failed to articulate a rational basis for combining the references, which thus effectively deprives Applicant of a careful, thorough, professional examination of the claims (as required by KSR). The Examiner's offerings of the reasons to combine are nothing more than a statement of the admitted feature missing from Lin and Kugimiya followed by a quote from Abir. None of the offerings are relevant to the claimed features at issue and provide the Applicant with any proper basis on which to assess the rejections.

In view of the foregoing, Applicant respectfully submits that the obviousness rejections are not properly substantiated by appropriately articulated reasons setting forth why the combination of references would be obvious. Absent any properly articulated reasoning, Applicant respectfully submits that the Examiner is merely engaged in an *ex post facto* reconstruction of the invention, which therefore constitutes a further reversible legal error.

It is therefore submitted that the rejection under 35 U.S.C. § 103(a) is improper and the Board of Patent Appeals and Interferences is respectfully requested to withdraw the rejections of claims 5, 6, 15, 16, and 20-25.

**Submission**

Applicant believes that no further fees are due in connection with the filing of this paper. In the event that the office determines that any further fee is due, Appellant requests that such fee be charged to its Deposit Account No. 195113.

Applicant requests that any questions concerning this matter be directed to the undersigned.

Respectfully submitted,

**OGILVY RENAULT LLP**

Date: April 21, 2010

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**Claims Appendix**

1. (Previously Amended) In a wireless communications device enabled for communication in a wireless communications network, a method of translating a portion of a text-based communication to be transmitted from the wireless device, comprising:

determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate;

sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated;

receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language;

stopping the continual monitoring of the text-based communication upon detecting an indication that the text-based communication is to be sent;

providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation; and

sending the text-based communication after a response has been received for each prompt.

2. (Previously Cancelled)

3. (Previously Cancelled)

4. (Previously Cancelled)

5. (Previously Amended) The method of claim 1 wherein said replacing comprises confirming the replacement.

6. (Original) The method of claim 5 wherein confirming the replacement comprises obtaining at least one alternative replacement from said translation service and wherein said replacing comprises replacing using a one of the at least one alternative replacement.

7. (Original) The method of claim 1 comprising maintaining a store of portions of text and respective replacements on said communications device; and using said store to determine the replacement.

8. (Original) The method of claim 7 wherein said portions of text and respective replacements are defined by prior translations performed using the communications device.

9. (Previously Amended) A system for translating a text-based communication to be transmitted from a wireless communications device, the wireless communications device being coupleable for communicating in a wireless communications network, the system comprising:

- an application coupled to a processor and configured for  
determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate;

- sending a translation request, the translation request configured for reception by a translation service means (100, 120, 122, 124) and comprising the text to be translated;

- receiving and associatively storing with the indicated text a translation thereof, from a first to a second language; and

- stopping the continual monitoring of the text-based communication upon detecting an indication that the text-based communication is to be sent;

- providing one or more prompts such that there is one prompt corresponding to each previously indicated translated text and further where each prompt comprises the corresponding translation; and

- sending the text-based communication after a response has been received for each prompt.

10. (Previously Cancelled)

11. (Previously Cancelled)

12. (Previously Amended) A mobile device for wirelessly communicating text-based communications configured for use in a communications network, the mobile device comprising:

a composition component to compose text for communicating wirelessly in a text-based communication; and

a translation component configured for

determining text of the text-based communication to be translated from a trigger symbol associated with the portion whilst the communication is being composed, the portion of text to be translated being indicated by at least one trigger symbol placed adjacent the portion;

transmitting a translation request to a translation service means coupled to the wireless communications device, the translation service means translating the text to be translated from a first language to a second language;

receiving the translated text in the second language at the wireless communications device;

continually monitoring to determine whether a send message request is received on the wireless communications device;

monitoring the text-based communication for the presence of a trigger symbol if it is determined that a send message request has not been received;

sending a request for the translation of the portion of text automatically from the wireless communications device to the translation service means upon determining the presence of the at least one trigger symbol whilst the communication is being composed;

providing a prompt to receive a response for each replacement translated portion of text if it is determined that a send message request has been received; and

sending the message once it is determined that there are no replacement translated portions of text requiring a response.



13. (Previously Cancelled)
14. (Previously Cancelled)
15. (Original) The mobile device of claim 12 wherein the translation component comprises a user interface to confirm the replacement to replace the portion.
16. (Currently Amended) The mobile device of claim [[13]] 12 wherein the translation component is adapted to obtain at least one alternative replacement from said translation service and wherein said user interface is adapted to confirm a one of the at least one alternative replacement to replace the portion.
17. (Previously Cancelled)
18. (Previously Cancelled)
19. (Previously Cancelled)
20. (Original) The method of claim 1, wherein a response to a replacement translated portion of text comprises any of:
  - an 'accept translation' whereby said replacement translated portion of text is used to replace a corresponding original portion of the text based communication;
  - a 'reject translation' whereby an original portion of the text based communication corresponding to said replacement translated portion is retained instead of replacing it with said replacement translated portion of text; or
  - a 'reject and ask for more' whereby a further request for translation of an original portion of text of the text based communication is formulated and sent to the translation service means to obtain one or more further replacement translated portions of text, the method further comprising providing a further prompt to receive a response to said one or more further replacement translated portions of text.
21. (Original) The method of claim 20, wherein the further prompt enables a selection of one of said one or more further replacement translated portions of text to replace a corresponding original portion of the text based communication or to reject all of said one

or more further replacement translated portions of text whereby said corresponding original portion of text is retained.

22. (Original) The system of claim 9, wherein the application is configured to receive a response to a replacement translated portion of text comprising any of:

an 'accept translation' whereby said replacement translated portion of text is used to replace a corresponding original portion of the text based communication;

a 'reject translation' whereby an original portion of the text based communication corresponding to said replacement translated portion is retained instead of replacing it with said replacement translated portion of text; or

a 'reject and ask for more' whereby a further request for translation of an original portion of text of the text based communication is formulated and sent to the translation service means to obtain one or more further replacement translated portions of text, the method further comprising providing a further prompt to receive a response to said one or more further replacement translated portions of text.

23. (Original) The system of claim 22, wherein the application is configured to provide said further prompt to enable selection of a specific one of said one or more further replacement translated portions of text to replace a corresponding original portion of the text based communication or to reject all of said one or more further replacement translated portions of text whereby said corresponding original portion of text is retained.

24. (Original) The mobile device of claim 12, wherein the translation component is configured to receive a response to a replacement translated portion of text comprising any of:

an 'accept translation' whereby said replacement translated portion of text is used to replace a corresponding original portion of the text based communication;

a 'reject translation' whereby an original portion of the text based communication corresponding to said replacement translated portion is retained instead of replacing it with said replacement translated portion of text; or

a 'reject and ask for more' whereby a further request for translation of an original portion of text of the text based communication is formulated and sent to the translation service means to obtain one or more further replacement translated portions of text, the method further comprising providing a further prompt to receive a response to said one or more further replacement translated portions of text.

25. (Original) The mobile device of claim 24, wherein the translation component is configured to provide said further prompt to enable selection of a specific one of said one or more further replacement translated portions of text to replace a corresponding original portion of the text based communication or to reject all of said one or more further replacement translated portions of text whereby said corresponding original portion of text is retained.

**Evidence Appendix**

None.

**Related Proceedings Appendix**

None.